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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000550

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SUBJECT: DRAFT NATIONAL HYDROCARBON LAW TO GO TO COUNCIL OF
MINISTERS

Classified By: ECONOMIC MINISTER COUNSELOR DANIEL WEYGANDT FOR REASONS
1.5 (B) (D)

1.(C REL GBR) Summary: Negotiations to finalize the draft national hydrocarbon law took place all day on February 15. Progress was made over the course of the week, with Prime Minister (PM) Maliki chairing an Energy Committee meeting by on February 12. The Committee reviewed the Kurdistan Regional Government's (KRG's) compromise proposals arising from the February 3-4 meetings in Erbil, and central government and KRG drafters, revisions of the text for high-level political review. As of this writing, agreement on a text has been reached, and a "cover letter" describing the importance of the hydrocarbon law and conditions attached to it is in the final stages of agreement. Following a meeting between the Ambassador and the PM on the morning of February 16, attempts are underway to schedule an extraordinary meeting of the Council of Ministers (CoM) either in the evening of February 16 or in next day or two so that the law might be approved in final. In addition to his meetings with PM Maliki and President Talabani, and the Ambassador has spoken with KRG President Masoud Barzani and Prime Minister Nechirvan Barzani to ensure that all parties stay on board. End Summary.

Cover Letter

2.(C REL GBR) While the KRG has agreed to allow the draft framework hydrocarbon law to reach the CoM, this acquiescence is based on conditions spelled out in a "cover letter" from the PM stating that the framework law will not go to the CoR until the revenue sharing law and the appendices listing fields assigned to the Iraq National Oil Company (INOC); fields outside INOC operations; and exploration areas are agreed. Included in this letter is a statement that no development will be pursued in the Disputed Territories, unless jointly managed, prior to the referendum stipulated in Article 140 of the Constitution. The letter also states that if the law reorganizing the Ministry of Oil (MinOil) and the law reconstituting the INOC are not submitted to the CoR concurrently, then these laws--as well as the KRG regional hydrocarbon law--must be consistent with the framework law. In the letter, the KRG agrees to present a list of existing KRG contracts) as does the central government for its contracts - and the federal government pledges to complete the implementing regulations and establish the relevant organizations as expeditiously as possible.

More Kurdish Conditions?

3.(C REL GBR) Initially, the KRG was demanding that if the appendices concerning contracting guidelines and model contracts are not yet completed, the KRG expects that a subset of guidelines for development in the Kurdistan Region (KR) and the KRG's model "risk-reward" contract be appended

to the law until a complete set is finalized. Appending the contract is important to the KRG so that exploration could go forward while the law and related legislation is being finalized, a process the KRG argues could take several months. KRG officials appear to be open to the idea that a side letter could be issued by the CoM to cover KRG desires to go forward on the basis of their current separate existing agreements. It is unclear how or if these demands will be addressed. Another issue that has not yet been resolved is the KRG's insistence on adding language to the definition of authorities that ensures that representation of Iraq's ethnic and sectarian makeup will be taken into consideration in making appointments to key institutions. Government of Iraq officials uniformly reject this demand as being outside the scope of the hydrocarbon law. Even officials like Planning Minister Ali Baban of Tawafuq, who support the principle of ethnic and sectarian balance are not in favor of incorporating it into the hydrocarbon law.

Legislative Timetable

4.(C REL GBR) It is likely that there will be problems with de-linking the appendices from the main text of the law, and completing all of the appendices will take time since they cover sensitive issues. DPM Salih has said that while the link with the revenue sharing law should not be direct, he would recommend making a statement when the CoM approves the framework law that it will be submitted to the CoR together with the revenue sharing law when the CoR resumes its session in March, and that we will continue to work quickly to complete a draft of the revenue sharing law. He added that Finance Minister Jabr thought this would be a realistic timeframe. Thamir Ghadhban, advisor to the PM and principal

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drafter of the law, told us that the PM had assembled a team to work on the revenue sharing law, and that they were coordinating with the chair of the CoR's Committee for Governorate Affairs.

Comment

5.(C REL GBR) Great progress on closing the text has been made over the last week, both on the main issue of the authority of the Federal Council on Oil and Gas and on a number of less political and more practical issues in the text. Without the action forcing deadline of sending the draft to the CoM this week, progress likely would have been slower. The text has now largely been agreed, which should make the endgame of getting the KRG to finally accept a national law easier. It has also been significant that Minister of Oil Shahrستاني, whose unilateral amendments to the draft in mid-January disrupted a process that was at that time well-advanced, has also retreated from a maximalist position. Officials in Baghdad, may feel that the law gives too much to the Kurds, especially given what is perceived as an intransigent position the KRG has taken in the last stage of the negotiations, and it can be expected that adoption of the related legislation on INOC and the re-structuring of the Oil Ministry will not be easy. Nevertheless, the principles upon which Iraq's future hydrocarbon regime will be based) a system with checks and balances, scope for foreign investment, but a very large role for the state-owned INOC) have now been cast into a document which should be approved soon.

KHALILZAD